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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,892	01/24/2006	William David Lewis	024774556	7925
24978	7590	08/14/2007		
GREER, BURNS & CRAIN 300 S WACKER DR 25TH FLOOR CHICAGO, IL 60606			EXAMINER O HERN, BRENT T	
			ART UNIT 1772	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/565,892	Applicant(s) LEWIS ET AL.	
	Examiner Brent T. O'Hern	Art Unit 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-57 and 61-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-57 and 61-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>6/15/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims

1. Claims 41-57 and 61-63 are pending with claims 61-63 new.

WITHDRAWN OBJECTIONS

2. The objections of record in the Office Action mailed 12 February 2007, page 2, paragraph 2 have been withdrawn due to Applicant's amendments in the Paper filed 15 June 2007.

WITHDRAWN REJECTIONS

3. The 35 U.S.C. 112, second paragraph rejections of record in the Office Action mailed 12 February 2007, page 3, paragraph 3 have been withdrawn, except for the rejection regarding the acrylic layer in claim #47, line 2 and "said filler material" in claim #56, line 2, due to Applicant's amendments in the Paper filed 15 June 2007.
4. The 35 U.S.C. 102(b) rejections of claims 41-42 and 44-57 as being anticipated by Altman et al. (US 4,067,071) of record in the Office Action mailed 12 February 2007, page 4, paragraph 4 have been withdrawn due to Applicant's amendments in the Paper filed 15 June 2007.
5. The 35 U.S.C. 103(a) rejections of claim 43 as being unpatentable over Altman et al. (US 4,067,071) in view of Swanson (US 4,414,385) of record in the Office Action mailed 12 February 2007, page 7, paragraph 5 have been withdrawn due to Applicant's amendments in the Paper filed 15 June 2007.

REPEATED REJECTIONS

6. The 35 U.S.C. 112, second paragraph rejections of claims 47 and 56-57;

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regarding "the acrylic layer" in claim #47, lines 2-3 and "said filler material" in claim #56, line 2 are repeated for the reasons of record in the Office Action mailed 12 February 2007, page 3, paragraph 3.

NEW REJECTIONS

Claim Rejections - 35 USC § 112

7. Claim 63 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 63 recites the limitation "said ... lower members" in lines 4-5. There is insufficient antecedent basis for this limitation in the claim.

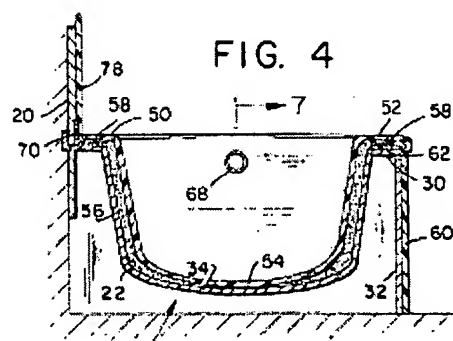
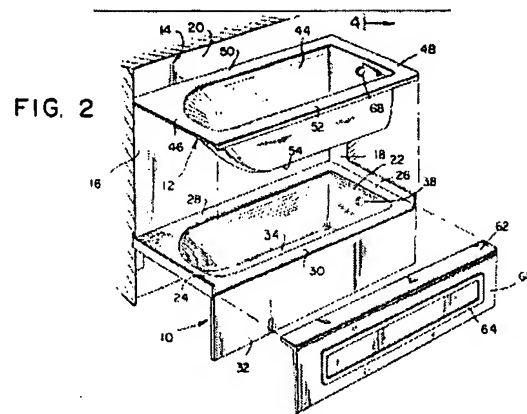
Clarification and/or correction is required.

Claim Rejections - 35 USC § 102

8. Claims 41-42 and 44-57 and 61-63 are rejected under 35 U.S.C. 102(b) as being anticipated by Altman et al. (US 4,067,071).

Regarding claims 41 and 52-56, Altman ('071) teaches a composite article having an upper member of plastics material (*See col. 4, ll. 3-7 and FIG-2, #12.*) and a lower member of plastics material that together form an outer shell (*See FIG-2, #60, #10 and col. 7, ll. 3-5.*), and an inner core of filler within the shell (*See FIG-4, #56.*), the upper member being spaced from the lower member to define a gap therebetween, the gap being constructed and arranged to separate the upper member from the lower member, to receive the core, and to provide strength and rigidity to the article (*See FIG-4 and col. 6, ll. 11-17 wherein the upper/lower members are spaced with core #56 between*).

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The phrases “wherein said upper and lower members are provided with means to aid locating said members relative to one another during moulding of said core” in claim 52, lines 2-3, “wherein said locating means comprise co-operating formations on said upper and lower members” in claim 53, lines 2-3, “wherein said co-operating formations are configured to provide a hole in a base wall of the article” in claim 54, lines 2-3, “wherein said lower member is provided with means to release air trapped between said members during moulding of said core” in claim 55, lines 2-3, and “wherein said lower member is provided with means to assist distribution of said filler between said members during moulding of said core” in claim 56, lines 2-3 are not given any patentable weight as said phrases do not positively set forth any further structural limitations than those already discussed above and below.

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Regarding claim 42, Altman ('071) teaches wherein said filler is a composite resin-stone mix (*col. 5, l. 58 to col. 6, l. 4*).

Regarding claims 44-45, Altman ('071) teaches wherein the upper member has an outer layer of hardwearing, scratch resistant material (*col. 4, ll. 12-23*).

The phrase **“for absorbing impacts occurring during use of the article”** in claim 45, lines 2-3 are deemed to be a statement with regard to the **intended use** and is not further limiting in so far as the structure is concerned (*see MPEP 2111.02*).

Regarding claims 46-47, Altman ('071) teaches wherein the upper member is an acrylic capped acrylonitrile butadiene styrene material (*col. 4, ll. 12-23*). Furthermore, Applicant has not precisely positively set forth an acrylic layer.

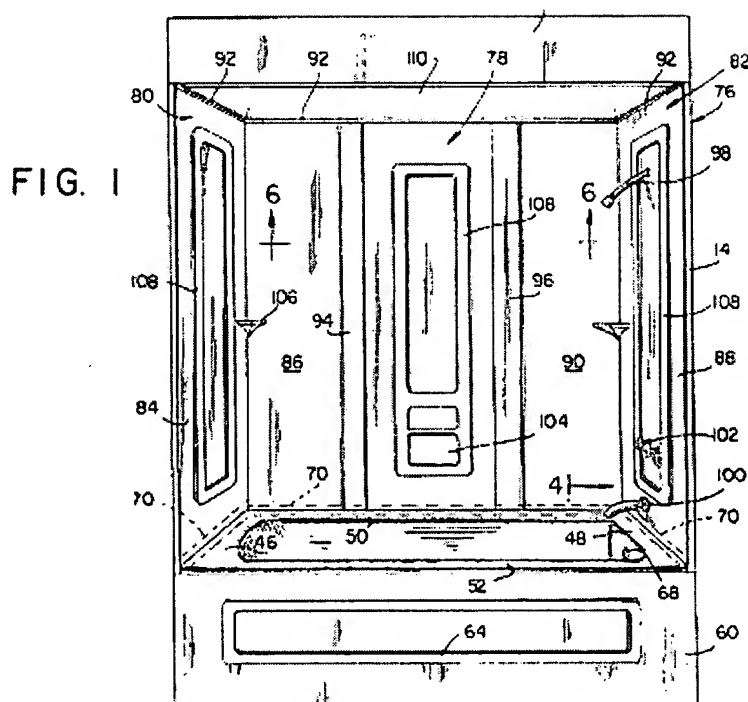
Regarding claim 48, Altman ('071) teaches wherein the lower member is made of acrylonitrile butadiene styrene (*col. 4, ll. 12-23*).

Regarding claim 49, Altman ('071) teaches wherein the inner core has a variable thickness (*See FIG-4, variable thickness of #56*).

Regarding claims 50-51, Altman ('071) teaches wherein sockets are provided in an underside of said lower member for receiving legs for raising the article above a surface on which it is installed (*FIG-4, #32 and #20 and FIG-7, #40*).

Regarding claim 57, Altman ('071) teaches wherein said lower member is provided with an array of interlinked recessed regions that allow said filler material to flow freely between said members (*FIG-4, recession #56 between the members*).

Regarding claim 61, Altman ('071) teaches wherein the article comprises a shower tray (*See col. 8, ll. 62-65 and FIG-1, entire FIG and with shower head #98*).



Regarding claim 62, Altman ('071) teaches a shower tray comprising a floor and inner walls upstanding from the floor to define a well (*See FIGs 1-2, with floor and walls and shower head at #98.*), the floor comprising an upper member of plastics material (*See col. 4, ll. 3-20 and FIG-2, #12.*), a lower member of plastics material (*See FIG-2, #60, #10 and col. 7, ll. 3-5.*), and a solid core of filler separating said upper and lower members whereby the core provides strength and rigidity to the floor of the shower tray (*See FIG-4, #56 and col. 6, ll. 11-17.*).

Regarding claim 63, Altman ('071) teaches a shower tray comprising an upper member of plastics material providing an outer surface of the tray and configured to define a central well, an upper wall surrounding the well and a side wall depending from the upper wall (*See FIGs 1-2, with floor and walls and shower head at #98.*), a lower member of plastics material on an underside of the tray (*See FIG-2, #60, #10 and col. 7, ll. 3-5.*), and a composite resin-stone filler separating the upper and lower members and

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providing strength and rigidity to the tray on an underside of the upper member (See FIG-4, #56 and col. 5, l. 55 to col. 6, l. 10.).

Claim Rejections - 35 USC § 103

9. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Altman et al. (US 4,067,071) in view of Swanson (US 4,414,385).

Altman ('071) teaches wherein said resin-stone mix comprises a mixture of limestone, calcium carbonate and a catalyst (See col. 5, l. 55 to col. 6, l. 10 and col. 4, ll. 39-55.), however, fails to expressly disclose wherein the resin is dicyclopentadiene.

However, Swanson ('385) discloses wherein the resin is dicyclopentadiene (See col. 1, ll. 51-58.) for the purpose of providing a material with superior resistance to chemical attack (See col. 1, ll. 49-50.).

Therefore, it would have been obvious to one having ordinary skill in the art at the time Applicant's invention was made to provide an article with a dicyclopentadiene resin as taught by Swanson ('385) in Altman ('071) in order to provide a material with superior resistance to chemical attack. Furthermore, Applicant has not disclosed the criticality of using the DCPD resin.

ANSWERS TO APPLICANT'S ARGUMENTS

10. In response to Applicant's argument (*p. 9, para. 4 to p. 10 para. 2 of Applicant's Paper filed 15 June 2007*) that Altman ('071) does not teach wherein the upper member is spaced per amended independent claim #41, it is noted that Altman ('071) clearly teaches *wherein the upper/lower members are spaced with core #56 between* (See FIG-4 and col. 6, ll. 11-17.).

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11. In response to Applicant's arguments (*p. 10, para. 3 of Applicant's Paper filed 15 June 2007*) regarding the non-structural language of claims 52-56, it is noted that said phrases do not positively set forth any further structural limitations than those already discussed above.

12. In response to Applicant's arguments (*p. 10, para. 4 to p. 11, para. 1 of Applicant's Paper filed 15 June 2007*) that Swanson ('385) is non-analogous art, it is noted that both Altman ('071) and Swanson ('385) are both directed towards cement-like formulations and furthermore, if one were to follow Applicant's reasoning then Applicant claims would be non analogous art from the other claims and Applicant would be restricted from claiming anything other than plastic shower materials.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent T. O'Hern whose telephone number is (571) 272-0496. The examiner can normally be reached on M-Th, 9:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Brent T O'Hern
Examiner
Art Unit 1772
August 6, 2007


NASSER AHMAD
PRIMARY EXAMINER 8/13/07